

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff / Respondent,

vs.

Civil No. 06-780 JP/RHS
Crim. No. 04-1507 JP

URBANO MAGALLON ALVARADO,

Defendant / Movant.

**ORDER ADOPTING FINDINGS, DENYING MOTION TO DISMISS
AND DIRECTING THE GOVERNMENT TO RESPOND**

THIS MATTER comes before the Court on the proposed findings and recommended disposition of the United States Magistrate Judge (“PFRD”) [Doc. 7] and the Government’s Motion to Dismiss a Motion to Vacate, Set Aside or Correct a Sentence Pursuant to 28 U.S.C. § 2255 Filed on August 24, 2006 (“Motion to Dismiss”) [Doc. 4]. No objections have been filed to the PFRD. Having considered the same, the Court will adopt the Magistrate Judge’s PFRD, deny the Motion to Dismiss and direct the Government to answer Mr. Alvarado’s § 2255 motion.

WHEREFORE,

IT IS ORDERED that the proposed findings of the United States Magistrate Judge are adopted by the Court.

IT IS ALSO ORDERED that the Government’s Motion to Dismiss a Motion to Vacate, Set Aside or Correct a Sentence Pursuant to 28 U.S.C. § 2255 Filed on August 24, 2006 [Doc. 4] is **denied** without prejudice.

IT IS FURTHER ORDERED that, within ten (10) days from entry of this order, the

United States Attorney shall answer Mr. Alvarado's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.



SENIOR UNITED STATES DISTRICT JUDGE